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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/058,944	01/30/2002	Yoji Nishio	020100	4622
23850	7590	11/04/2003	EXAMINER	
ARMSTRONG, KRATZ, QUINTOS, HANSON & BROOKS, LLP			MAI, TRI M	
1725 K STREET, NW			ART UNIT	
SUITE 1000			PAPER NUMBER	
WASHINGTON, DC 20006			3727	

DATE MAILED: 11/04/2003

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/058,944

Applicant(s)

NISHIO ET AL.

Examiner

Tri M. Mai

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) 1-3 is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 4-7 is/are rejected.
- 7) ☒ Claim(s) 8 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) ____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Election/Restrictions

1. Claims 1-3 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim.

Election was made **without** traverse in Paper No. 4.

Claim Objections

2. Claim 8 is objected to under 37 CFR 1.75(c) as being in improper form because a multiple dependent claim cannot depend on another multiple dependent claim. See MPEP § 608.01(n). Accordingly, the claim 8 not been further treated on the merits.
3. Claims 4-7 are objected to: claims 4-7 are required to be rewritten in independent form.

Claim Rejections - 35 USC § 112

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 4-7 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

“first to fourth” should be replaced with “first, second, third and fourth”.

“different from the latter scores in level” is confusing.

Claim Rejections - 35 USC § 102

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

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(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claims 4, and 5 are rejected under 35 U.S.C. 102(b) as being anticipated by Billberg (4655396), or in the alternative, over Billberg in view of Sidebotham (2362862). Billberg teaches a blank having 1st to 4th panels, with 1st to 4th top panels, and 1st to 4th bottom panels with the inverted V-shaped folding scores in the manner as claimed. It is noted that the process in claim 1 does not impart any structure over the blank in claim 4.

In the alternative, Sidebotham teaches that it is known in the art to provide a container bottom with folded earflaps as shown in Figs. 8 and 9. It would have been obvious to one of ordinary skill in the art to provide a container bottom with folded ear flaps in Billberg as taught by Sidebotham to provide an alternative bottom.

Regarding claim 5, note the two bottom panels having no ear folding score projecting beyond outer ends of the two bottom panels with ear folding score.

8. Claims 4-6 are rejected under 35 U.S.C. 102(b) as being anticipated by Braun (3498524). Braun teaches a blank having 1st to 4th panels, with 1st to 4th top panels, and 1st to 4th bottom panels with the inverted V-shaped folding scores in the manner as claimed. It is noted that the process in claims 1 and 2 does not impart any structure over the blank in claim 4 since process is recited as an intended use "for use in a process", and the blank in Braun is capable of being folded in the intended manner.

Regarding claim 6, note the score lines on panel 27 and 29 are higher than the other two.

Claim Rejections - 35 USC § 103

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Billberg, as set forth above, in view of Anchor et al. (5738272). Anchor '272 teaches that it is known in the art to provide ear-folding scores being different from the other horizontal score in level. It would have been obvious to one of ordinary skill in the art to provide the folding score being different from the other horizontal score in level in Billberg as taught by Anchor '272 to enable the manufacture to adjust the volume easily.

11. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Billberg in view of Anchor et al. (5738272), and further in view of Anchor et al. '144. It would have been obvious to one of ordinary skill in the art to provide straight score lines to provide an inverted V shaped in the modified container of Billberg as taught by Anchor '144 to provide the desired score line to enable the manufacture to adjust the volume easily.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tri M. Mai whose telephone number is (703)308-1038. The examiner can normally be reached on 7:30am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lee W Young can be reached on (703)308-2572. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)308-1148.

Tri M. Mai
Primary Examiner
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